IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1814 OF 2007

Rupee Co-operative Bank Ltd. ..Petitioner

Vs.

Mrs. Rajul Ketan Rajpopat and ors. ..Respondents

Mr. R.G. Ketkar for petitioner.
Mr. P.A. Pol, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : September 28, 2007.

P.C.:

. Heard Mr. Ketkar the learned counsel for the petitioner-bank. In Criminal Case No.447968 of 2006 the learned JMFC, Court No.4, Pune was pleased to issue process against accused no.2 by his order dated 2/2/2007 and the said order came to be challenged in Criminal Revision Application No.456 of 2007. The said revision came to be allowed by the learned Additional Sessions Judge at Pune vide his order dated 13/6/2007 and the operative part of the order reads as under:-

"Order passed below Exhibit 1 dated 2/2/2007 in Summary Case No.0447968/2006 is set aside and learned J.M.F.C. Court No.4, Pune is directed to consider the material placed on record by following the amended provisions of Section 202 of Cr.P.C. and then proceed in accordance with law."

. It is clear from the complaint that accused no.2 Dr. Ketan Anantbhai Rajpopat is a resident of Mumbai and thus beyond the territorial jurisdiction of the learned JMFC at Pune. The amended scheme of Section 202 of Cr.P.C. mandates that before issuance of process against a person located beyond the territorial jurisdiction of the Magistrate concerned, he shall postpone the issue of process against the accused and enquire into the case himself. As per Subsection 2 of Section 202 in the said enquiry the Magistrate may, if he thinks fit, takes evidence of witnesses on oath. The order of issuance of process dated 2/2/2007 does not indicate that this amended procedure was followed by the learned Magistrate while

issuing process against accused no.2 who is a resident of Mumbai and, therefore, the learned Additional Sessions Judge rightly remanded the matter to the learned JMFC, Court No.4 at Pune to follow the procedure as per the amended provisions of Section 202 of Cr.P.C. and then proceed in accordance with law.

. No fault could be found with the view taken by the learned Additional Sessions Judge and hence the petition is rejected summarily.

(B.H. Marlapalle,J.)